

West Virginia Legislature
JOURNAL
OF THE
HOUSE OF DELEGATES



**EIGHTY-SECOND
LEGISLATURE
SECOND REGULAR
SESSION**
HELD AT CHARLESTON
**PUBLISHED BY THE CLERK OF THE
HOUSE**

— * —

Tuesday, January 26, 2016

FOURTEENTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Monday, January 25, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 4189, Expiring funds to the unappropriated balance in State Fund, General Revenue, from the Department of Revenue,

And reports the same back with the recommendation that it do pass.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4227, Adding citizen members to the Real Estate Appraiser Licensing and Certification Board,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 4227 -- "A Bill to amend and reenact §30-38-6 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Real Estate Appraiser Licensing and Certification Board; changing the requirements for membership on the board; providing for continued service of qualifying board members; and providing for the disqualification of certain members who become licensees,"

H. B. 4230, Adding citizen members to the board of Registration for Professional Engineers,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 4230 -- "A Bill to amend and reenact §30-13-4 and §30-13-5 of the Code of West Virginia, 1931, as amended, all relating to the Board of Registration for Professional Engineers; changing the qualifications for membership on the board; providing for continued service of qualifying board members; creating an emeritus status; and providing for the disqualification of certain members who become licensees,"

H. B. 4238, Adding citizen members to the board of Professional Surveyors,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 4238 -- "A Bill to amend and reenact §30-13A-4 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Board of Professional

Surveyors; changing requirements for membership on the board; staggering terms; providing for continued service of qualifying board members; providing for the disqualification of certain members who become licensees; and providing that citizen member appointments represent different congressional districts,”

And,

H. B. 4241, Adding citizen members to the Real Estate Commission,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 4241 -- “A Bill to amend and reenact §30-40-6 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Real Estate Commission; changing the qualifications for membership on the commission; providing for continued service of qualifying board members; adding party affiliation limitation; and providing for the disqualification of certain members who become licensees,”

With the recommendation that the committee substitutes each do pass.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4081, Board of Accountancy, rule relating to Board rules and rules of professional conduct,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (H. B. 4081) was referred to the Committee on the Judiciary.

Resolutions Introduced

Delegates Marcum, Phillips, Hamrick, P. White, J. Nelson, R. Smith, Arvon and Howell offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 24 – “Requesting the Division of Highways to name the Bridge No. 30A081 crossing County Route 52/26 and a creek on Musick Bottom Road in Mingo County, the ‘Cpl. Ronald ‘Duke’ Varney Memorial Bridge’.”

Whereas, Ronald J. Varney, "Duke", was born on April 15, 1950. He spent his childhood in Varney, West Virginia where he attended Red Jacket High School. At the age of seventeen, he voluntarily enlisted in the United States Marine Corps where he defended his country as a Corporal in the Vietnam War. In May of 1972, he married Penny White, of Lenore, West Virginia, and they had three children, Kimberly, Kelly and Michael Varney. He also had seven grandchildren, Amber Rasnake, Ronnisue Justice, McKenzie Goff, Tori Varney, Kylee Varney, Waylon Parker Varney, Kelsey Stogsdill, and one great-grandson, Noah Michael Rasnake. He passed away in February, 2004, from cancer as a result of Agent Orange. He was a very loving and dedicated father who worked hard for his family. He was a retired coal miner who lived in Mingo County for fifty-four years. "Duke" was a friend to so many people and never failed to help anyone in need. He is sadly missed and sweetly remembered by all who had the pleasure of knowing him; and

Whereas, Naming the Bridge No. 30A081 crossing County Route 52/26 and a creek on Musick Bottom Road in Mingo County, the "Cpl. Ronald 'Duke' Varney Memorial Bridge" is an appropriate recognition of his contributions to his country, state, community and Mingo County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the Bridge No. 30A081 crossing County Route 52/26 and a creek on Musick Bottom Road in Mingo County, the "Cpl.

Ronald 'Duke' Varney Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the Bridge No. 30A081 crossing County Route 52/26 and a creek on Musick Bottom Road in Mingo County, the "Cpl. Ronald 'Duke' Varney Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and the surviving wife and children of Cpl. Ronald 'Duke' Varney and their families.

Delegates Howell, A. Evans, Rowan and R. Smith offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 25 – “Declaring December 14 as ‘Frosty the Snowman Day’.”

Whereas, “Frosty the Snowman” was written by Walter “Jack” Rollins of Keyser, Mineral County, West Virginia and Steve Nelson. Walter “Jack” Rollins was born on September 15, 1906, and died on January 1, 1973. He wrote over 500 songs, several with Mr. Nelson. Frosty was released December 14, 1950, and performed by cowboy singer and actor Gene Autry and the Cass County Boys and quickly became a winter classic; and

Whereas, We can imagine this song to be about a jolly happy soul, perhaps a West Virginia mountaineer, “with a corn cob pipe and a carrot nose and two eyes made out of” West Virginia coal. What better way to celebrate the holiday season than honoring December 14 as “Frosty the Snowman” Day and at the same time remembering and honoring the songs of a native West Virginia Mountaineer who wrote the words to Frosty as well as “Here Comes Peter Cottontail”, “Smokey the Bear” and the Hank Snow hit, “I Don’t Hurt Anymore”; therefore, be it

Resolved by the Legislature of West Virginia:

That December 14 be declared as "Frosty the Snowman Day".

Delegates Romine, Rowan, Pethtel and Hamilton offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 26 – “Requesting the Division of Highways name the bridge located near Middlebourne in Tyler County (i.e., bridge number 48-11/6-0-41) that traverses Point Pleasant Creek the ‘Corporal Gary Wayne Weekley Memorial Bridge’.”

Whereas, Gary Wayne Weekley, a native West Virginian, was born in New Martinsville in Wetzel County, West Virginia on October 6, 1949; and

Whereas, Corporal Weekley joined the United States Army, beginning his tour of duty on January 30, 1970. Corporal Weekley served his country valiantly during the Vietnam War where he sacrificed his life at the young age of twenty years, as the result of being struck by an explosive ordnance in Binh Dinh Province in South Vietnam.

Whereas, Corporal Weekley after giving the ultimate sacrifice on behalf of and in the service of this country should rightly be accorded a lasting memorial to commemorate his heroic deeds performed for the citizens of the United States; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to erect signs at both entrances to the bridge located near Middlebourne in Tyler County (i.e., bridge number 48-11/6-0-41) that traverses Point Pleasant Creek naming the bridge the “Corporal Gary Wayne Weekley Memorial Bridge.”

Further Resolved, That the Clerk of the House of Delegates is hereby requested to forward a certified copy of this concurrent resolution to the Secretary of the Department of Transportation and all surviving family members of Corporal Weekley.

Delegates Hamrick, Trecost, Waxman and Miley offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 27 – “Requesting the Division of Highways to name bridge number 17-50/59-0.01, locally known as the North View Overpass, crossing U.S. Route 50 on N 13th Street in North View, Harrison County, the ‘Michael Angiulli Memorial Bridge’.”

Whereas, Michael "Mike" Angiulli was born in North View in Harrison County, West Virginia, on September 1, 1924, the son of the late John and Mary Agnes Checchia Angiulli; and

Whereas, In 1942, he graduated from Victory High School; and

Whereas, Mike was married to Roanna Gay Snyder and had five children: John Michael Angiulli, Michael "Mike" Angiulli, Mary Ann Preston, Cheryl Angiulli and Kenneth Snyder; and

Whereas, In 1943, Mike joined the Marine Corps and began serving in the E Company, 9th Marine Regiment, 3rd Marine Division. During his time with the Marine Corps, he attained the rank of Platoon Sergeant. While serving during World War II in the Pacific, he took part in three beach landings - Guam, Bougainville and Iwo Jima; and

Whereas, In 1945, upon returning from World War II, Mike became a Clarksburg Firefighter and later retired due to an injury; and

Whereas, In 1957, he and a small group formed the North View Athletic Club ("NVAC") and at one time had three playgrounds in North View. Mike was awarded the Clarksburg Man of the Year Award in 1958 and remained active in the NVAC his entire life; and

Whereas, In the early 1980's, Mike built one of the first signs entering the North View community with the help of Roger Diaz; and

Whereas, In the 1990's Mike worked with Pete Iquinto and Liberty baseball. Mike was given the name "The Grass Doctor" by Pete; and

Whereas, Also in the 1990's and early 2000's, Mike made notebooks of World War II which he gave to area high schools and colleges, and also gave talks about World War II; and

Whereas, Mike fell ill in 2006 and was cared for by his family until he entered the West Virginia Veterans Nursing Facility in 2012; and

Whereas, Mike passed away on Thursday, July 23, 2015, at the Louis A. Johnson Veterans Administration Hospital in Clarksburg; and

Whereas, Mr. Angiulli was preceded in death by his wife, Roanna Gay Snyder Angiulli, on February 14, 2004, and son, Kenneth Snyder; and

Whereas, It is fitting that an enduring memorial be established to commemorate his service to his community and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 17-50/59-0.01, locally known as the North View Overpass, crossing U.S. Route 50 on N 13th Street in North View, Harrison County, the “Michael Angiulli Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge proclaiming it the “Michael Angiulli Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates, forward a certified copy of this resolution to the Commissioner of the Division of Highways and to the family of the late Michael Angiulli.

On motions for leave, Joint Resolutions were introduced, read by their titles and severally referred as follows:

By Delegates Deem and Overington:

H. J. R. 32 – “Proposing an amendment to the Constitution of the State of West Virginia, repealing sections four, five, six, seven, eight, nine and ten, article six thereof; and amending said Constitution by adding thereto a new article, designated article fifteen, all relating to the creation of a Citizens Redistricting Commission to redistrict Senate, House Of Delegates, and congressional districts; numbering and designating the proposed amendment; and providing a summarized statement of the purpose of the proposed amendment”; to the Committee on the Judiciary.

And,

By Delegates Sobonya, Moffatt, Miller, Frich, Rohrbach, Butler, Cowles, Householder, Kurcaba and Summers:

H. J. R. 33 – “Proposing an amendment to the Constitution of the State of West Virginia amending section two, article XII thereof, relating to the free schools of the State, numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on Education then the Judiciary.

Delegates Howell, A. Evans, Rowan and R. Smith offered the following resolution, which was read by its title and referred to the Committee on Rules.

H. R. 6 – “Honoring the town of Piedmont, in Mineral County, West Virginia, on the occasion of the town’s 160th anniversary.”

Whereas, The town of Piedmont was chartered in the year 1856; and

Whereas, Piedmont is located in the Eastern Panhandle of West Virginia, on the south side of the North Branch of the Potomac River, at the foot of the Allegheny Front on the eastern edge of the Allegheny Mountains; and

Whereas, Piedmont is located at coordinates 39 degrees, 28 minutes, 49 seconds N and 79 degrees, 02 minutes, 53 seconds W (39.480232, -79.048086) and has a total area of 0.38 square miles of land; and

Whereas, The climate at Piedmont has mild differences between highs and lows, and has adequate rainfall throughout the year; and

Whereas, The main line of the Baltimore and Ohio Railroad reached Piedmont on July 21, 1851, and in the year 1853 connected Baltimore, Maryland and the Ohio River at Wheeling, Virginia, now West Virginia. The railroad line through Piedmont is still a busy segment of the B & O system, part of CSX transportation; and

Whereas, During the American Civil War, 1861 to 1865, the town of Piedmont, largely because of the railroad line, was repeatedly raided by McNeill’s Rangers in efforts by the Confederates to disrupt train service; and

Whereas, William Luke established the West Virginia Paper Company (now NewPage

Corporation) on 50 acres of Maryland land known as West Piedmont, adjacent to Westernport, Maryland, in 1888; and

Whereas, Well-known jazz performer Don Redman was born in Piedmont on July 29, 1900. Henry Louis Gates, a professor of African-American history at Harvard University, author of several books and television commentator and host was raised in Piedmont, an experience he described in his 1994 book “Colored People”; and

Whereas, Industrialist Henry Gassaway Davis, who developed coal, timber, banking and railroad interests in West Virginia, was elected to the West Virginia House of Delegates and to the State Senate, served two terms in the United States Senate, and in 1904 was a Democratic nominee for vice president of the United States, worked in Piedmont, West Virginia in the early part of his career; and

Whereas, The 2010 census shows there were 876 people, 385 households and 225 families living in Piedmont, with a racial makeup of 77.3% white, 17.9% African American, and the remainder Native American, Asian, Hispanic, Latino or other; and

Whereas, The median age of residents in the town was 37.1 years and the gender makeup of the town was 47.3% male and 52.7% female; therefore, be it.

Resolved by the *House of Delegates*:

That the House of Delegates hereby acknowledges the year 2016 as the 160th anniversary of the town of Piedmont, West Virginia, and urges citizens to celebrate the many contributions made to the state and nation, by the town’s citizens, past and present; and, be it

Further Resolved, That the Clerk of the House of Delegates prepare a copy of this resolution for the appropriate representatives from the Piedmont area.

Delegates Sobonya, Arvon, Azinger, Rohrbach, Deem, Duke, Espinosa, A. Evans, Faircloth, Fast, Fleischauer, Folk, Frich, Hamilton, Hamrick, Hicks, Hill, Howell, Ihle, Kelly, Kessinger, Marcum, McCuskey, Moffatt, Morgan, Moye, Pushkin, Rodighiero, Romine, Rowan, Rowe, Shaffer, P. Smith, Stansbury, Statler, Storch, Waxman, Weld, Westfall, Zatezalo, Mr.

Speaker (Mr. Armstead), and Blackwell offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 7 – “Designating that the month of April be proclaimed as Sarcoidosis Awareness Month beginning in 2016.”

Whereas, Sarcoidosis is an inflammatory disease most commonly affecting people of all ages and races worldwide. Studies have shown that Sarcoidosis affects young adults of both sexes, with more cases in females. The disease occurs at a higher rate among African Americans and people of European descent; and

Whereas, Many people with Sarcoidosis experience nonspecific symptoms of fever, fatigue, weight loss, night sweats and an overall feeling of malaise. These symptoms most often result in the disease going untreated. The disease most commonly targets the lungs and lymph nodes, but may occur in the eyes, skin or any other area of the body and it causes the immune system to attack the body’s own tissues; and

Whereas, While progress has been made in understanding Sarcoidosis, the cause is unknown and it is likely that there may be more than one cause. There is no cure for Sarcoidosis. Declaring a Sarcoidosis Awareness Month will encourage the citizens of West Virginia to gain greater understanding of this disease; and

Whereas, It will bring awareness to those persons living with the disease and their families. It will help to educate the physicians and the medical staffs that treat persons with this disease; and

Whereas, It will encourage support education programs and the funding of research programs to find a cure; therefore, be it

Resolved by the House of Delegates:

That the month of April be proclaimed as Sarcoidosis Awareness Month beginning in 2016.

Further Resolved, The Clerk of the House of Delegates, forward a certified copy of this Resolution to the Governor of this State.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates O'Neal, Mr. Speaker (Mr. Armstead), Hanshaw, Moye, Fast, A. Evans, Azinger, Waxman, Romine, Rowan and Phillips:

H. B. 4012 -- "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-11C-1, §5-11C-2, §5-11C-3, §5-11C-4 and §5-11C-5, all relating to establishing the West Virginia Religious Freedom Restoration Act to ensure that, in all cases where state action substantially burdens the exercise of religion, strict scrutiny is applied; to provide a claim or defense to a person or persons whose exercise of religion is substantially burdened by state action; including a short title; providing definitions; and addressing applicability construction, remedies and severability"; to the Committee on the Judiciary.

By Delegates Fast, Howell, Rowan, Gearheart, Hill, Kurcaba and Azinger:

H. B. 4267 -- "A Bill to amend and reenact §24A-1-3 of the Code of West Virginia, 1931, as amended, relating to commercial motor carriers generally; providing an exemption from regulation by the Public Service Commission for motor vehicles used exclusively in the transportation of roll-off solid waste containers; and requiring the commission to propose rules for legislative approval to implement the amended provisions of this section"; to the Committee on Roads and Transportation then the Judiciary.

By Mr. Speaker (Mr. Armstead), and Delegate Miley

[By Request of the Executive]:

H. B. 4268 -- “A Bill to amend and reenact §31-15A-16 of the Code of West Virginia, 1931, as amended, relating to dedication of severance tax proceeds to the West Virginia Infrastructure General Obligation Debt Service Fund; specifying reduction of the amount of severance tax proceeds dedicated to the West Virginia Infrastructure General Obligation Debt Service Fund”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead), and Delegate Miley

[By Request of the Executive]:

H. B. 4269 -- “A Bill to amend and reenact §11-8-6f of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-9A-4, §18-9A-5, §18-9A-7, §18-9A-10 and §18-9A-11 of said code, all relating to public school finance; eliminating authority of growth county boards of education to designate regular school board levy revenues due to new construction or improvements to a growth county school facilities act fund; adjusting the formula for foundation allowance for professional educators; adjusting the formula for foundation allowance for service personnel; adjusting and eliminating certain adjustments of the foundation allowance for transportation costs; adjusting the calculation for the foundation allowance to improve instructional programs; and eliminating certain restrictions in the computation of local share”; to the Committee on Education then Finance.

By Mr. Speaker (Mr. Armstead), and Delegate Miley

[By Request of the Executive]:

H. B. 4270 -- “A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Military Affairs and Public Safety, West Virginia Parole Board, fund 0440, fiscal year 2016, organization 0605, and to the Department of Military Affairs and Public Safety, Division of Juvenile Services, fund 0570, fiscal year 2016,

organization 0621, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead), and Delegate Miley

[By Request of the Executive]:

H. B. 4271 -- “A Bill to amend and reenact §29-22A-10 and §29-22A-10d of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-25-22 and §29-25-22b of said code, all relating to ending discretionary transfers to the Licensed Racetrack Modernization Fund; transferring funds remaining in the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund to the General Revenue Fund of the state during the fiscal year ending June 30, 2016; and closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund”; to the Committee on Finance.

By Delegates Fast, Shaffer, Hanshaw, Kurcaba, McCuskey, Manchin and Skinner:

H. B. 4272 -- “A Bill to amend and reenact §29-21-13a of the Code of West Virginia, 1931, as amended, relating to Public Defender Services; increasing the hourly rate for attorneys for in court and out of court work including investigative services; permitting attorneys who spend at least sixty percent of their practice in appointed cases to enroll in the Public Employees Insurance Agency plans; and requiring the executive director to propose rules, for legislative approval, that relate to requirements for such attorneys to enroll in such plans”; to the Committee on the Judiciary then Finance.

By Delegates Fast, Hill, Shaffer and Azinger:

H. B. 4273 -- “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-4-32, relating to requiring that patching repair of hard surfaced roads, highways and streets be by use of mechanical rollers for smoother final repair; and providing exceptions”; to the Committee on Roads and Transportation then Finance.

By Delegates Fast, Hill, Shaffer, Overington, Kurcaba, Kessinger and Border:

H. B. 4274 -- “A Bill amend and reenact §11-14-2 and §11-14-11 of the Code of West Virginia, 1931, as amended, all relating to gasoline and fuel excise tax; requiring a refund of gasoline or fuel excise tax when fuel is consumed by a commercial vehicle while that vehicle is not operated upon the highways of this state”; to the Committee on Roads and Transportation then Finance.

By Delegates Fast, Hill, Shaffer, Azinger and Border:

H. B. 4275 -- “A Bill to amend and reenact §5-11-10 of the Code of West Virginia, 1931, as amended, relating to requiring the Human Rights Commission, when investigating a complaint of discrimination, to specifically include an examination of the intent of the person or entity alleged to have committed the unlawful discriminatory practice”; to the Committee on the Judiciary.

By Delegates Fast, Shaffer, Kurcaba, Border and Azinger:

H. B. 4276 -- “A Bill to amend and reenact §3-1-31 of the Code of West Virginia, 1931, as amended, relating to requiring all local special elections to be held on the days and hours of general, primary or state-wide elections”; to the Committee on the Judiciary.

By Delegates Fast, Gearheart, Shaffer and Kessinger:

H. B. 4277 -- “A Bill to repeal §21-3-19 of the Code of West Virginia, 1931, as amended, relating to employer discrimination for use of tobacco products”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Fast, Hill, Shaffer, Kurcaba and Azinger:

H. B. 4278 -- “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §46A-6-109a, relating to allowing a home improvement transaction to be performed under an oral contract”; to the Committee on the Judiciary.

By Delegates Hamilton, A. Evans, Romine, Wagner, Ambler, Eldridge, Pethtel, Sponaugle and Guthrie:

H. B. 4279 -- “A Bill to amend and reenact §20-7-8 of the Code of West Virginia, 1931, as amended, relating to disposition of seized firearms”; to the Committee on the Judiciary.

By Delegates Kelly, Cooper, Perry, Sobonya, Atkinson, Azinger, Romine, McGeehan, Trecost, J. Nelson and Butler:

H. B. 4280 -- “A Bill to amend and reenact §17C-15-44 of the Code of West Virginia, 1931, as amended relating to permitting persons who are twenty-one years of age or older to operate or be a passenger on a motorcycle without a helmet”; to the Committee on Roads and Transportation then the Judiciary.

By Delegate Byrd:

H. B. 4281 -- “A Bill to amend and reenact §18-2-39 of the Code of West Virginia, 1931, as amended, relating to the administration of the statewide summative assessment, and providing that the assessment only be administered in grades three through eight and once at the high school level”; to the Committee on Education.

By Delegates Howell, Hamrick, Hill, Ihle, Hartman, Phillips, Moffatt, Atkinson, Faircloth, Morgan and Zatezalo:

H. B. 4282 -- “A Bill to amend and reenact §5A-1-2 of the Code of west Virginia, 1931, as amended; to amend and reenact §5F-2-1 of said code; to amend said code by adding thereto twelve new sections, designated §5F-2-1a, §5F-2-1b, §5F-2-1c, §5F-2-1d, §5F-2-1e, §5F-2-1f, §5F-2-1g, §5F-2-1h, §5F-2-1i, §5F-2-1j, §5F-2-1k and §5F-2-1l; to amend and reenact §21A-1-4 of said code; and to amend and reenact §29-15-1 of said code, all relating to the reorganization of certain code provisions that organize the executive branch of state government; and by

amending code references reflecting new sections”; to the Committee on Government Organization then the Judiciary.

By Delegates Hamrick, Cadle, Ellington, Trecost, Foster, Atkinson, Butler, Rowan, Storch, Westfall and Waxman:

H. B. 4283 -- “A Bill to repeal §20-2-19a of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2-5, §20-2-42g and §20-2-42h of said code, all relating to hunting or trapping on private lands; removing restrictions for hunting or trapping on private lands on Sundays; and clarifying that hunting on private land at any time requires the written consent of the landowner”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Hamrick, Waxman, Storch, McCuskey, Westfall, Statler, Flanigan, P. Smith, Atkinson, Hill and Hanshaw:

H. B. 4284 -- “A Bill to amend and reenact §17B-2-12 of the Code of West Virginia, 1931, as amended, relating to the issuance, expiration and renewal of driver’s license; providing that the license of any person who is working on behalf of West Virginia or the United States out of the United States does not expire until six months after that person returns to West Virginia; and providing that the driver’s license of family members of persons in the Armed Forces of the United States do not expire until six months after separation from the service by the military member”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Hamrick, Trecost, Waxman, Wagner, Atkinson, Butler, Statler, Rowan, Frich, Weld and Storch:

H. B. 4285 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-10-33; relating to making it a misdemeanor for a person to impersonate a veteran; and creating criminal penalties”; to the Committee on Veterans' Affairs and Homeland Security then the Judiciary.

By Delegates Westfall, Stansbury, McCuskey, B. White, Frich, Hamrick and Waxman:

H. B. 4286 -- “A Bill to amend and reenact §33-11-3 of the Code of West Virginia, 1931, as amended, relating to the scope and application of the Unfair Trade Practices Act”; to the Committee on Banking and Insurance then the Judiciary.

By Delegates A. Evans, J. Nelson, Fleischauer, Rowan, Longstreth, Reynolds, Kelly, Ferro, Lynch, Ireland and Atkinson:

H. B. 4287 -- “A Bill to amend and reenact §15-1G-10 of the Code of West Virginia, 1931, as amended, relating to providing for the awarding of a West Virginia veterans’ service pin and a West Virginia Service Cross and ribbon to qualifying West Virginia veterans; providing allowing the Military Awards Board to administer the issuance of the Service Cross and ribbon and veteran service pin; authorizing the board to set priorities in issuing Service Cross and ribbon and veteran service pins; authorizing the board to receive contributions for funding the issuance of awards; and removing unnecessary rule-making authority”; to the Committee on Veterans' Affairs and Homeland Security.

Daily Calendar

Third Reading

H. B. 2147, Requiring the circuit court, when appointing counsel for alleged protected persons, to make appointments from a listing of all interested and qualified attorneys in the circuit; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 9**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2147) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

H. B. 2147 - - "A Bill to amend and reenact §44A-2-7 of the Code of West Virginia, 1931, as amended, relating to appointing counsel for an alleged protected person; requiring the circuit court to make appointments from a listing of all interested attorneys in the circuit and on a rotating basis; and providing for the appointment of any competent counsel if no interested counsel are available.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

H. B. 2584, Allowing a judge to excuse a potential juror from jury duty until a later date based on seasonal employment; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 10**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2584) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for H. B. 2588, Relating to the filing of financial statements with the Secretary of State; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 11**), and there were--yeas 65, nays 34, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Ambler, Anderson, Arvon, Azinger, Border, Butler, Caputo, Cooper, Eldridge, D. Evans, Faircloth, Fleischauer, Folk, Hartman, Hornbuckle, Kelly, Kessinger, Longstreth, Lynch, Marcum, Miley, Miller, Moffatt, J. Nelson, Perry, Pushkin, Reynolds, Rodighiero, Romine, Shaffer, Sobonya, Sponaugle, Wagner and P. White.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2588) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

H. B. 2796, Providing paid leave for certain state officers and employees during a declared state of emergency; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 12**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2796) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for H. B. 2800, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 13**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2800) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for H. B. 4038, Relating to insurance requirements for the refilling of topical eye medication; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 14**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4038) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Second Reading

Com. Sub. for H. B. 2130, Including law-enforcement officers among those professionals the assault or battery of which leads to enhanced criminal penalties; on second reading, coming up in regular order, was read a second time.

Delegate Manchin moved to amend the bill on page three, section ten-b, following line fifty-one, by adding a new subsection (f) to read as follows:

“(f) In determining the number of prior convictions for purposes of imposing punishment under subsection (d), the court shall disregard all such prior convictions occurring more than ten years prior to the offense in question.”

The question before the House being on the adoption of the amendment, the same was put by the Speaker and did not prevail.

The bill was then ordered to engrossment and third reading.

H. B. 4005, Repealing prevailing hourly rate of wages requirements; on second reading, coming up in regular order, was read a second time.

Delegates Miley, Caputo, Pushkin, Ferro, Sponaule, Fluharty, Guthrie, Perdue, Morgan and Bates moved to amend the bill on page one, line one, following the enacting clause, by striking out the remainder of the bill, and inserting in lieu thereof, the following:

“That the Code of West Virginia, 1931, as amended, be amended and reenacted by adding thereto two new sections, designated §21-5A-1a and §21-5a-1b, all to read as follows:

ARTICLE 5A. WAGES FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS.

§21-5A-1a. Repeal of prevailing wage in West Virginia for period of years.

Upon the effective date of the section enacted during the 2016 Regular Session of the West Virginia Legislature, the provisions of this article are repealed, and deemed null and void, until July 1, 2021, and then shall resume in full force and effect if no further legislative action is taken. This five year repeal of the terms of this article will allow for state construction activities, wages and other economic conditions impacted by the repeal the prevailing wage established in this article to take effect, and sufficient time for studies as required by section 1b of this article to be completed, and further, to allow the 2021 West Virginia Legislature to make a determination to whether this article shall be repealed permanently or allowed to return to full force and effect.

§21-5A-1b. Study of impact of repeal of prevailing wage in West Virginia.

(a) The West Virginia University Bureau of Business and Economic Research and the Center for Business and Economic Research at Marshall University in furtherance of section four,

article three, chapter eighteen-b of this code, shall study the economic impacts of the repeal of the prevailing wage standards for construction of public improvements in West Virginia. The study shall be completed by July 31st, 2020, and provide a comprehensive analysis of the impact of the repeal of prevailing wages, that includes at a minimum the following: the trend of wages paid to West Virginia workers employed by government contract in the state construction industry by region, before and after the repeal; the detailed costs of state construction projects that were subject to prevailing wage prior to and after repeal; the impact to overall employment of state construction industry prior to and after repeal; whether the repeal has reduced state resident workers versus non-resident workers in the state construction industry; the quality of construction practices, including cost overruns, contract amendments and timeliness of contract performance in state construction projects; the effect of reduced health insurance premium contributions on state Medicaid liability; and any other trends in the state construction industry that have occurred and have been identified by the researchers that have resulted by repeal of prevailing wage.

(b) The West Virginia University Bureau of Business and Economic Research and the Center for Business and Economic Research at Marshall University shall submit all their studies to the Joint Committee on Government and Finance and each member of the Legislature no later than July 31, 2020.”

Delegate Cowles arose to a point of order as to the germaneness of the amendment.

To the point of order the Speaker replied, stating that the fundamental purpose of the bill was to repeal sections of code and the amendment added new sections to the bill which suspend prevailing wage, therefore the amendment was not germane to the fundamental purpose of the bill.

The bill was then ordered to engrossment and third reading.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Moore.

Remarks by Members

Delegate Perdue asked and obtained unanimous consent that the remarks of Delegate J. Nelson regarding the recently announced coal mining layoffs in Boone County be printed in the Appendix to the Journal.

Delegate Frich asked and obtained unanimous consent that the remarks of Delegate R. Smith regarding coal production decline be printed in the Appendix to the Journal.

Delegate Howell asked and obtained unanimous consent that the remarks of Delegate Arvon regarding coal production decline be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Cowles filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4218.

At 12:22 p.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, January 27, 2016.